

Congress of the United States
Washington, DC 20515

September 7, 2021

The Honorable Richard E. Neal
Chairman
House Ways & Means Committee
H-208, U.S. Capitol

Dear Chairman Neal,

We thank you for your leadership in keeping our Caucus united, positioning our party to seize upon this unique opportunity to enact transformative legislation that promises to rebuild an American economy that works for all of us. As we look forward to crafting tax reforms to support a Build Back Better reconciliation package, we ask that you bring us together in support of President Biden's international tax proposals.

Reforming our international tax structure envisioned by both the Biden administration proposals and the No Tax Breaks for Outsourcing Act (H.R. 1785) -- cosponsored by a majority of our Democratic Caucus -- will serve two purposes. The first is to raise hundreds of billions of dollars in new revenue to offset investment priorities embraced by our Caucus. The second goal is to return a measure of fairness to our tax code, one that levels the playing field and restores the competitiveness of American workers and domestic businesses by removing tax incentives to outsource production and offshore profits.

Enacting the President's proposal enhances the competitiveness of domestic and multinational businesses. Our multinationals' access to the lowest cost capital in the world in U.S. equity and debt markets assures that their cost of capital will remain a competitive advantage irrespective of the tax "pay fors" in this legislation. JCT found large American multinationals paid an effective tax rate of just 7.8% on their worldwide income in 2018. Our top ten trading partners, by contrast, levied an average effective rate of 18%. Additionally, a Reuters analysis of financial statements of large American multinationals and those of their direct foreign competitors determined that even if all of the Biden corporate tax changes adopted without any global minimum tax, US multinationals would still enjoy a tax advantage vis-à-vis their foreign competition. The argument that the Biden international tax proposals will make American businesses uncompetitive makes for forceful lobbying but has no basis in fact.

In supporting the OECD process, the United States Congress should adopt the U.S. tax system that is best for Americans, not simply defer to a least common denominator OECD outcome. Moreover, the best way to support Secretary Yellen in her international negotiations is by embracing her own international tax reforms and enabling her to seek a stronger global minimum as already supported by some of our most important trading partners. Weakening President Biden's proposal would only weaken her hand.

The OECD's Pillar 2 is following and strengthening the existing U.S. GILTI regime, but the extent to which and how other countries will adopt Pillar 2 provisions in their law will not be known until long after this legislation is complete. While the specifics of legislation to be adopted by other countries is not yet known, we do know that when America leads, we can significantly influence what others do to end the race to the bottom.

Of particular importance are the provisions of the Biden plan and Outsourcing bill which:

- Support American workers by removing an incentive for exporting investment and jobs by establishing a GILTI rate as near as possible to the domestic corporate tax rate. If the domestic rate is raised to only 25%, the GILTI rate should remain at 21% as requested by the Biden administration. We certainly should not increase the incentive for outsourcing jobs by lowering the GILTI differential below the 75% in the Biden proposal, which would mean 19% if paired with a 25% domestic rate.
- Apply the GILTI tax on a per country basis and properly allocate expenses to foreign income. Current law amounts to an America last tax policy, where companies have incentives to both invest in our economic competitors and book profits on paper to tax havens. A per country application of the GILTI tax is a robust deterrent to profit shifting and was agreed to as part of the Pillar 2 negotiations. To comply with this agreement, GILTI should be reformed to be applied on a per country basis.
- Repeal the exemption for owning foreign assets. Current law exempts entirely from U.S. tax a 10% return on tangible investments made abroad (QBAI). The more factories built abroad; the more income goes untaxed. The QBAI deduction is not analogous to the substance-based carve out in the GLoBE Pillar 2 tax base; QBAI exempts returns on *foreign* investment from tax, whereas carve-outs under Pillar 2 seek to protect *domestic* activities. Further, under a global minimum tax agreement the original rationale for QBAI disappears, so this clear tax incentive to ship American factories and jobs offshore should be removed.
- Enact a version of the OECD's undertaxed payments rule, either along the lines of the administration's SHIELD proposal or a strengthened and modified BEAT – which circumscribes the ability of foreign-domiciled multinationals to shift profits out of the US market into low-taxed jurisdictions. It is also important to combat earnings stripping by preventing multinationals from loading up their U.S. subsidiaries with a disproportionate amount of debt. President Biden has proposed to restrict excessive interest deductions and a similar provision was even included in the Trump tax law before lobbyists succeeded in removing it in conference.
- Prevent companies from renouncing their U.S. citizenship to avoid taxes through inversions. President Biden's anti-inversion provisions are another important element of protecting the US tax base.
- Reject proposals that would weaken standards set by Republicans in the 2017 tax law. For instance, the 20% "haircut" for Foreign Tax Credits remains a strong disincentive to outsourcing production and offshoring profits. This standard remains important especially

if we are not equalizing the GILTI rate with the domestic corporate rate. Additionally, there should be no consideration beyond that already given for Trump 2020 losses -- U.S. businesses already reaped benefits from carrying back 2019 and 2020 “21%” losses against pre-2018 “35%” income (and electively skipping low-taxed Section 965 income).

We hope that the Chairman’s Mark reflects the priorities enumerated above. These measures would provide key support for President Biden’s agenda to make historic investments in infrastructure and American families. They would also fix our “America Last” tax code by restoring the competitiveness of American workers and domestic businesses and require multinationals to pay their fair share in tax. And, of course, with the substantial revenue required to fund these investments, declining to support robust international tax reform would only result in small businesses and individuals unnecessarily shouldering a greater tax burden.

Sincerely,



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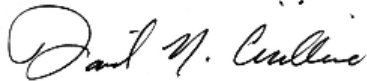
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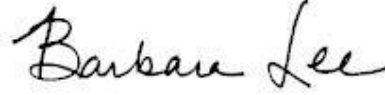
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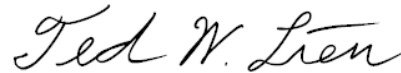
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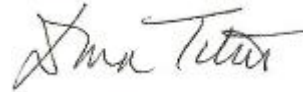
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